

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Courtney Vishawadia	Team: Team # 3	CCRB Case #: 200101626	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/06/2001 6:00 PM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 70	18 Mo. SOL 9/6/2002	EO SOL 9/6/2002	
Date/Time CV Reported Wed, 03/07/2001 9:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/07/2001 9:56 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. LT Brian McGinn	00000	910284	B/S-END

Officer(s)	Allegation	Investigator Recommendation
A.LT Brian McGinn	Abuse: Lt. Brian McGinn authorized the entry and search of the location.	[REDACTED]

Synopsis

On March 6, 2001, Brooklyn South Narcotics Team 1, supervised by Lt. Brian McGinn, executed a search warrant at § 87(2)(b) § 87(2)(b) and her children, § 87(2)(b) and § 87(2)(b) § 87(2)(b) alleged that the officers abused their authority by entering and searching their apartment. The family stated that they believe that the apartment next door should have been the target location. However, the affidavit and search warrant both contain that address and that apartment number consistently. § 87(2)(g)

§ 87(2)(g)
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Summary of Complaint

§ 87(2)(b) filed a complaint with the CCRB on March 7, 2001 that officers entered and searched her apartment. § 87(2)(b) (age 43), § 87(2)(b) (age 17) and § 87(2)(b) (age 20) were all interviewed at § 87(2)(b) on April 4, 2001 (encls. 5,6,7). § 87(2)(b) and Leticia are the children of § 87(2)(b)

The investigator tried on two occasions to reach § 87(2)(b) by the mobile telephone number provided by § 87(2)(b) and left messages, but § 87(2)(b) did not contact the investigator. The family did not know § 87(2)(b)'s address and stated that § 87(2)(b) forgot to be present at the family's home on the day that the investigator arranged the interview. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)

All of the members of the family said that they were home in their apartment at approximately 6:00 PM on March 6, 2001. § 87(2)(b) was talking on the telephone in the bedroom (to the right as one enters the front door), § 87(2)(b) was coming out of that bedroom, § 87(2)(b) was cooking in the kitchen (to the left through the living room as one enters the front door) and § 87(2)(b)'s friend, § 87(2)(b) was using the computer in the living room when § 87(2)(b) and § 87(2)(b) said they heard a bang at the front door. § 87(2)(b) and § 87(2)(b) stated that as § 87(2)(b) came out of the bedroom, the front door flew open and officers entered the apartment with their guns out. § 87(2)(b) said that she was standing near the door when the officers entered, one of the officer's guns accidentally bumped into her head. § 87(2)(b) saw six officers, § 87(2)(b) saw eight or nine officers and § 87(2)(b) saw three or four officers enter the apartment with their guns out and a clear shield with other officers following them.

§ 87(2)(b) said that he still had the telephone in his hand when an officer came into the bedroom and told him not to move. § 87(2)(b) saw one officer immediately rush into the bedroom and open all the doors in the apartment. § 87(2)(b) stated that the officer who came into the bedroom rear cuffed him without incident. § 87(2)(b) said that officer left the room and a second officer came into the room and closed the door. That officer told § 87(2)(b) that the officers had a search warrant because and undercover officer previously purchased drugs from their apartment. The officer asked § 87(2)(b) where the drugs were and § 87(2)(b) said that he responded that the officers had the wrong apartment because no one there sold drugs. § 87(2)(b) stated that the officer then told him that he should inform the officers where the drugs are and make it easier on himself. § 87(2)(b) stated that the officers then took everyone out into the hallway.

§ 87(2)(b) saw the officers begin to go through her belongings in the bedroom while other officers told her to get out of the kitchen and for § 87(2)(b) to get off the computer. § 87(2)(b) also heard the officers tell § 87(2)(b) and § 87(2)(b) to stand up in the living room. § 87(2)(b) said that the officers appeared surprised by what they saw when they entered the apartment. § 87(2)(b) said that she and § 87(2)(b) complied and put their hands in the air. § 87(2)(b) asked the officers what happened and the officers responded that they were executing a search warrant for narcotics. § 87(2)(b) said that her mother came into

the living room and § 87(2)(b) translated to Spanish what the officers were doing in the apartment. At that point, § 87(2)(b) said that an officer handcuffed § 87(2)(b) and her in the living room and § 87(2)(b) who was standing in the doorway between the entryway and the living room. § 87(2)(b) stated that she could see § 87(2)(b) handcuffed in the bedroom, but never saw the officers handcuff him. § 87(2)(b) also said that she was handcuffed in the entryway to the living room, but then became very upset and went into shock. § 87(2)(b) stated that her mother had back pains and the officers took her handcuffs back off § 87(2)(b). § 87(2)(b) said that the officer took the handcuffs off her less than one minute after the officer put them on. § 87(2)(b) stated that the officer then walked § 87(2)(b) over to the couch and allowed her to sit down for a few seconds. According to § 87(2)(b) and § 87(2)(b) the officers brought § 87(2)(b) out of the bedroom and took everyone out into the hallway. At that point, everyone except § 87(2)(b) was handcuffed.

§ 87(2)(b) and § 87(2)(b) all said that the officers separated them in the hallway and asked for pedigree information. The three all stated that one officer stayed with them in the hallway while all the other officers, including one officer with a dog, went into the apartment. § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) complained that his handcuffs hurt and one officer took them off and put them back on correctly. All three said that an officer came back out of the apartment and asked for § 87(2)(b) approximately five or ten minutes after going into the hallway. § 87(2)(b) estimated that § 87(2)(b) was in the apartment for thirty minutes while § 87(2)(b) believed he was inside for five to ten minutes. All three stated that § 87(2)(b) came back out of the apartment and an officer asked for § 87(2)(b).

§ 87(2)(b) stated that he went into the bedroom of the apartment with an officer where another officer was searching through § 87(2)(b)'s belongings. The officer who was searching asked § 87(2)(b) where the drugs were and to tell the officers to make it easier on his family. § 87(2)(b) said that the officer said, "You don't want your sister and your friend to go to jail, do you?" § 87(2)(b) stated that he told the officer that he did not and that there were no drugs in the house. That officer told § 87(2)(b) that if the officers found even a "blunt" that § 87(2)(b) would go to jail. § 87(2)(b) said that he told the officer to go ahead and search the apartment. § 87(2)(b) estimated that he was in the bedroom with the officers for five or ten minutes before the officers took him back out into the hallway where § 87(2)(b) and § 87(2)(b)'s family were still standing.

§ 87(2)(b) said that while § 87(2)(b) was inside the apartment, one of the officers said that he wanted to take § 87(2)(b) downstairs to his car to show her the warrant, which the family had requested to see. According to § 87(2)(b), § 87(2)(b) objected to her daughter going downstairs with the officers while she was handcuffed so the officer said that he would go downstairs and get the warrant. § 87(2)(b) stated that the officer wanted to take her downstairs, but she told the officer she could not because she did not speak English. § 87(2)(b) and § 87(2)(b) said that the officer returned with the warrant. While § 87(2)(b) read the warrant, she said § 87(2)(b) came back out into the hallway. § 87(2)(b) stated that he saw the warrant when he came out of the apartment.

§ 87(2)(b) and § 87(2)(b) stated that an officer apologized to the family and said that they were not going to destroy everything in the apartment because they looked like a nice family. § 87(2)(b) stated that the officer told them that they had the right to break down everything to the pipes to look for drugs, but they were not going to. § 87(2)(b) and § 87(2)(b) both said that the officer then told § 87(2)(b) not to think the investigation was over and that the police would be watching them closely. According to § 87(2)(b) an officer told her that he saw something going on between § 87(2)(b) and § 87(2)(b) but did not explain what he meant by the statement. All the family said that the warrant had the correct address on it, but they believe the officers wanted to get the apartment next door. § 87(2)(b) stated that the apartment next door always has "different people" coming by. § 87(2)(b) said that a few years prior to the incident, the police broke down the door to apartment § 87(2)(b) next door to their apartment. § 87(2)(b) also stated that a neighbor came down the stairs from the fifth floor during the incident and told the police that they had the wrong apartment. § 87(2)(b) said that the neighbor told the officers that the apartment that they wanted was on the fifth floor.

Results of Investigation

POLICE / COURT DOCUMENTS & OFFICER IDENTIFICATION

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

The Application for the search warrant (encl. 8), submitted by Det. Arthur Thompson of Brooklyn South Narcotics, clearly states § 87(2)(e), § 87(2)(f)
[REDACTED]
[REDACTED]

The search warrant (encl. 9) was issued for § 87(2)(b) and has that address consistently listed as the subject location throughout the document.

The Pre-Execution Plan (encl. 10), Post-Execution Plan (encl. 11), Return (encl. 12) and Det. Arthur Thompson's DAR (encl. 14) all reflect the same location for the entry.

The Post-Execution Plan (encl. 11) and Return (encl. 12) state that no narcotics were retrieved and that four individuals § 87(2)(b) and § 87(2)(b) were arrested inside the location and that the arrests were immediately voided. This information is also reflected in Det. Thompson's (the assigned arresting officer who applied for the warrant) DAR (encl. 14).

The Pre-Execution Plan (encl. 10) and the 70 Pct. Team #1 Roll Call (encl. 13) both list Lt. McGinn as the supervising officer on the team for that entry.

Conclusions and Recommendations

Allegation A – Lt. Brian McGinn authorized the entry and search of the location.

All the court and police documents consistently reflect that the search warrant was issued for § 87(2)(b) § 87(2)(e), § 87(2)(f)
[REDACTED] § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: